

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

JENNIFER BENTLEY,

Plaintiff,

v.

UNITED OF OMAHA LIFE
INSURANCE COMPANY;

Defendants.

No. 15-cv-07870-DMG (AJWx)

**[PROPOSED] ORDER GRANTING
PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF
CLASS-ACTION SETTLEMENT**

1 WHEREAS, plaintiff Jennifer Bentley, trustee of the 2001 Bentley Family Trust,
2 and defendant United of Omaha Life Insurance Company entered into a Settlement
3 Agreement dated December 23, 2021, which sets forth the terms and conditions for a
4 proposed settlement of this action (*Action*) and for its dismissal with prejudice upon the
5 terms and conditions set forth therein;

6 WHEREAS, plaintiff has moved the Court for an order: (i) preliminarily
7 approving the Settlement under Federal Rule of Civil Procedure 23(e); and (ii) directing
8 notice as set forth herein;

9 WHEREAS, the Settlement appears to be the product of informed, arms'-length
10 settlement negotiations among experienced Class Counsel and counsel for defendant,
11 which negotiations were conducted over a period of months and mediation sessions
12 including before the Ninth Circuit mediator Ms. Sasha M. Cummings, Esq.; and

13 WHEREAS, the Court is familiar with and has reviewed the record, the
14 Settlement Agreement, Plaintiff's Notice of Motion for Preliminary Approval of Class-
15 Action Settlement, the Memorandum of Points and Authorities in Support Thereof,
16 and the supporting Declaration and has found good cause for entering this Order;

17 NOW THEREFORE, it is hereby ORDERED and ADJUDGED as follows:

18 **Class Certification**

19 This Order incorporates by reference the definitions in the Settlement
20 Agreement dated December 23, 2021 (the *Settlement*), and, unless otherwise defined
21 herein, all defined terms used herein have the same meanings ascribed to them in the
22 Settlement.

23 In orders dated May 1, 2018 [ECF No. 132], May 22, 2018 [ECF No. 141], and
24 August 3, 2018 [ECF No. 158], the Court previously certified the following class
25 pursuant to Federal Rule of Civil Procedure 23:

26 All beneficiaries who made a claim, or would have been eligible to make a claim,
27 for the payment of benefits on life insurance policies renewed, issued or delivered by

1 United of Omaha Life Insurance Company (“Omaha”) in the State of California that
2 lapsed or were terminated by Omaha for the non-payment of premium after January 1,
3 2013 (and which were not affirmatively cancelled by the policyholder), and as to which
4 policies the policyholder(s) did not receive one or more of the notices of the right to
5 designate under Section 10113.72 of the California Insurance Code.¹

6 The Court previously found that this class comprised only 26 life insurance
7 policies with 33 beneficiaries, which are as follows: 8448979, 7997098, 5342817,
8 6422766, 7010893, 9149455, BU1105227, BU1133356, BU1101313, BU1083350,
9 UR2627721, UR2674494, UR2671752, UR2493480, UR2577555, UR2584816,
10 UR2681720, UR2447251, UR2654966, UR2647072, BU1289270, BU1395175,
11 BU1399164, BU1152776, BU1067439, UR1652898 (collectively the *Class Policies*).
12 ECF No. 174. Thus, the class above is limited to and defined by these 26 policies and
13 33 beneficiaries.

14 Preliminary Approval of the Settlement

15 The Settlement is the product of non-collusive, arm's-length negotiations between
16 experienced class-action and defense attorneys who were well informed of the strengths
17 and weaknesses of the Action, including through discovery and motion practice, and
18 whose settlement negotiations were supervised by the Ninth Circuit mediator. The
19 Settlement confers substantial benefits upon the Class and avoids the costs, uncertainty,
20 delays, and other risks associated with continued litigation, trial and/or appeal
21 concerning the claims at issue. The Settlement falls within the range of possible
22 recovery, compares favorably with the potential recovery when balanced against the risks
23 of continued prosecution of the claims in the Action, and does not grant preferential
24 treatment to Plaintiff, her counsel, or any subgroup of the Class.

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27 ¹ The Court also previously appointed Joseph M. Vanek of Sperling & Slater, P.C. and Jason
28 A. Zweig of Keller Lenkner LLC as Class Counsel, and plaintiff Jennifer Bentley as Class
Representative. ECF No. 132.

1 The Court preliminarily approves the Settlement as fair, reasonable, and
2 adequate and in the best interest of Plaintiff and the other Class members, subject to
3 further consideration at the Final Approval Hearing to be conducted as described
4 below.

5 The Settlement Amount shall be paid to and managed by Class Counsel as
6 detailed in the Settlement Agreement. All funds held by Class Counsel shall be deemed
7 and considered to be *in custodia legis* and shall remain subject to the jurisdiction of the
8 Court, until such time as such funds are distributed pursuant to the Settlement
9 Agreement.

10 **Manner and Form of Notice**

11 The Court approves the Notice substantially in the form attached as Exhibit 3 to
12 the Declaration of Jason A. Zweig in support of Plaintiff's Motion for Preliminary
13 Approval of Settlement. The proposed notice plan, which provides for direct notice via
14 first-class mail and via email (where emails are available), will provide the best notice
15 practicable under the circumstances. This plan and the Notice are reasonably
16 calculated, under the circumstances, to apprise Class members of the pendency of the
17 Action, the effect of the proposed Settlement; the anticipated motion for attorneys' fees,
18 reimbursement of litigation expenses, and incentive award; and their rights to
19 participate in or object to any aspect of the proposed Settlement; constitute due,
20 adequate and sufficient notice to Class members; and satisfy the requirements of Rule
21 23 of the Federal Rules of Civil Procedure, due process, and all other applicable laws
22 and rules. The date and time of the Final Approval Hearing shall be included in the
23 Notice before dissemination.

24 By March ____, 2022 [7 days after preliminary approval], Class Counsel shall
25 cause the Notice to be mailed and emailed (where Class Counsel possesses a Class
26 member's email address) to all members of the Class at the mailing address on file for
27 such members of the Class (the *Notice Date*). Substantially contemporaneously with the
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1 mailing of the Notice, Class Counsel shall cause a PDF version of the Notice to be
2 posted on the website www.omahalifeinsuranceclassaction.com. Class Counsel shall
3 also cause the Settlement Agreement, Motion for Preliminary Approval and supporting
4 documents, as well as all other documents ultimately filed in support of Final Approval,
5 including the forthcoming Motion for Attorneys' Fees and Costs and Motion for Final
6 Approval, to be posted on the website of www.omahalifeinsuranceclassaction.com
7 substantially contemporaneously with the filing of those documents with the Court.

8 The dates provided for herein may be extended by Order of the Court, for good
9 cause shown, without further notice to the Class.

10 The Final Approval Hearing

11 The Court will hold a Final Approval Hearing on _____[not earlier than 120
12 days from preliminary approval], 2022 at 9:30 a.m., at the United States District Court
13 for the Central District of California, 350 West 1st Street, Los Angeles, CA, 90012,
14 Courtroom 8C, 8th Floor, for the following purposes: (i) to determine whether the
15 Settlement should be approved as fair, reasonable, and adequate and in the best
16 interests of the Class; (ii) to consider Class Counsel's application for an award of
17 attorneys' fees, reimbursement of litigation expenses, and named plaintiff incentive
18 award; and (iii) to consider any other matters that may properly be brought before the
19 Court in connection with the Settlement. The hearing may be continued by the Court,
20 and, the hearing may be converted into a virtual or telephonic hearing. Class Counsel
21 shall post any such changes in the date or medium of hearing on
22 www.omahalifeinsuranceclassaction.com.

23 Class Counsel's motion for final approval of the Settlement and papers in
24 support of Class Counsel's application for attorneys' fees, reimbursement of litigation
25 expenses, and incentive award shall be filed by _____, 2022 [60 days after
26 preliminary approval].

1 Class Counsel's reply papers shall be filed by _____, 2022 [110 days after
2 preliminary approval].

3 **Objections and Appearances at the Final Approval Hearing**

4 Any member of the Class may appear at the Final Approval Hearing and show
5 cause why the proposed Settlement should or should not be approved as fair,
6 reasonable, and adequate, or why judgment should or should not be entered, or to
7 comment on or oppose Class Counsel's application for attorneys' fees, reimbursement
8 of litigation expenses, and incentive award. No person shall be heard or entitled to
9 contest the approval of the Settlement or, if approved, the judgment to be entered
10 approving the Settlement, Class Counsel's application for an award of attorneys' fees,
11 reimbursement of litigation expenses, and incentive award, unless that person
12 submitted an objection in writing by _____, 2022 [90 days after preliminary
13 approval](the *Objection Deadline*).

14 Any Class member who does not make his, her, or its objection in the time and
15 manner provided for herein shall be deemed to have waived such objection and shall
16 forever be barred from making any objection to the fairness, reasonableness, or
17 adequacy of the proposed Settlement, to entry of the Final Approval Order and
18 Judgment of Dismissal, or to Class Counsel's application for an award of attorneys' fees,
19 costs, and expenses and for named plaintiff incentive award. By objecting, or otherwise
20 requesting to be heard at the Final Approval Hearing, a person shall be deemed to have
21 submitted to the jurisdiction of the Court with respect to the objection or request to be
22 heard and the subject matter of the Settlement, including, but not limited to,
23 enforcement of the terms of the Settlement.

24 For an objection to be considered by the Court, the objection must include the
25 following: the Class member's full name, signature, address, email address, and
26 telephone number; an explanation of the basis upon which the objector claims to be a
27 Class member; whether the objection applies only to the objector, to a specific subset of
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1 the class, or to the entire class, and the reasons for the objection, accompanied by any
2 legal or factual support for the objection; proof of your membership in the class (proof
3 of your membership in the class includes a copy of your drivers' license, proof of your
4 address, such as a utility bill, or tax bill); the name of counsel for the objector (if any),
5 including any former or current counsel who may seek or receive compensation for any
6 reason related to the objection; the case name and civil action number associated with
7 any other objections the objector or their counsel have made in any other class-action
8 cases in the last four years; and whether the objector intends to appear at the Final
9 Approval Hearing on their own behalf or through counsel.

10 Any Class member who timely and properly objects may appear at the Final
11 Approval Hearing, either in person or through an attorney hired at the Class member's
12 expense. Any objector who wishes to present evidence at the Final Approval Hearing
13 must include in their written objection(s) the identity of any witness(es) they may call to
14 testify and copies of any exhibit(s) they intend to offer at the hearing. Counsel for any
15 objector must enter a Notice of Appearance no later than 14 days before the Final
16 Approval Hearing.

17 Attendance at the Final Approval Hearing is not necessary, but persons wishing
18 to be heard orally in connection with approval of the Settlement and/or the application
19 for an award of attorneys' fees, reimbursement of expenses, and incentive award must
20 indicate in their written objection their intention to appear at the hearing.

21 **Exclusions from the Class**

22 The Court finds that in light of the prior opportunity to opt out of the class
23 certified by the Court on May 1, 2018 [ECF No. 132], as modified by orders dated May
24 22, 2018 [ECF No. 141], and August 3, 2018 [ECF No. 158], a second opt-out
25 opportunity is not warranted, and no member of the Class shall be permitted to opt out
26 of the Class.

No Party or counsel to a Party in this Litigation shall have any liability to any Class member for any action taken substantially in accordance with the terms of this Order.

Reservation of Jurisdiction

The Court retains exclusive jurisdiction over the Action to consider all further matters arising out of or connected with the Settlement.

Schedule and Deadlines

The Court orders the following schedule for the specified action and further proceedings:

Event	Proposed Deadline
Entry of preliminary approval order	_____, 2022 ("Preliminary Approval Date")
Deadline to mail notice, email notice where email addresses are available, and post notice on www.omahalifeinsuranceclassaction.com	_____, 2022 [7 days after Preliminary Approval Date]
Plaintiff to move for final approval and attorneys' fees, reimbursement of litigation expenses, and incentive award	_____, 2022 [60 days after Preliminary Approval Date]
Objection Deadline	_____, 2022 [90 days after Preliminary Approval Date]
Plaintiff to file reply in support of final approval, motion for final approval of the settlement and attorneys' fees, reimbursement of litigation expenses, and incentive award, and to respond to any objection	_____, 2022 [110 days after Preliminary Approval Date]
Fairness Hearing	_____, 2022 @ 9:30 a.m. [not earlier than 120 days after Preliminary Approval Date]

Dated: _____, 2022

The Honorable Dolly M. Gee
United States District Judge

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